

REMARKS

Claims 1-40 are currently pending in the subject application and are presently under consideration. Claim 1 has been amended to cure a minor informality. Favorable reconsideration of the subject patent application is respectfully requested in view of the comments and amendments herein.

I. Rejection of Claims 1-6, 8-18, 22-35 and 40 Under 35 U.S.C. §102(e)

Claims 1-6, 8-18, 22-35 and 40 stand rejected under 35 U.S.C. §102(e) as being anticipated by Van Erlach (U.S. 2004/0204063). This rejection should be withdrawn for at least the following reasons. Van Erlach does not disclose or suggest each and every element of the subject claims.

A single prior art reference anticipates a patent claim only if it ***expressly or inherently describes each and every limitation*** set forth in the patent claim. *Trintec Industries, Inc. v. Top-U.S.A. Corp.*, 295 F.3d 1292, 63 USPQ2d 1597 (Fed. Cir. 2002); *See Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). ***The identical invention must be shown in as complete detail as is contained in the ... claim.*** *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989) (emphasis added).

Applicant's claimed subject matter relates to a global framework for mobile commerce. The global framework can provide input that allows purchase information, as well as location aware transactions, to be received. In particular, independent claim 1 recites a system comprising ***a data input component that receives item data representative of an article of commerce; a coordination component that presents the article of commerce to a vendor for bid; a location awareness component that tracks the location of the data input component; and a payment component that facilitate payment of the article of commerce.*** Van Erlach fails to disclose or suggest the claimed subject matter.

Van Erlach appears to disclose examples of various telecommunication and wireless services. Each example provided by Van Erlach is a separate and distinct entity, and as a result relates to separate inventions within the cited reference. In particular, Van Erlach appears to show a personal contact service (*See Paragraph 0026*), a method of sending digital documents

(See Paragraph 0027), a service that allows a user to receive samples of multimedia content (See Paragraph 0028) and a system that provides price information based on location (See Paragraph 0029). Van Erlach also shows three additional embodiments, which include a device that allows a business to communicate with customers (See Paragraph 0030), a vital sign system (See Paragraph 0031) and a system that helps predict sales of media (See Paragraph 0032).

Examiner contends that Van Erlach discloses *a coordination component that presents the article of commerce to a vendor for bid* at Paragraph 0032 (See Final Office Action dated March 9, 2007, pg. 3). Applicant's representative respectfully disagrees with such contention.

The cited passage shows one embodiment of Van Erlach that can help predict future prices of media, such as compact discs, books, games, etc. For example, a user can connect a device *to receive information* relating to a futures market. However, receiving information relating to future prices is different than presenting an article of commerce for bid. A user of Van Erlach does not present any articles for bid, because the user can only download information. Consequently, Van Erlach does not disclose or suggest a system comprising *a data input component that receives item data representative of an article of commerce; a coordination component that presents the article of commerce to a vendor for bid; a location awareness component that tracks the location of the data input component; and a payment component that facilitates payment of the article of commerce.*

Furthermore, Van Erlach is also silent with respect to *a payment component that facilitates payment of the article of commerce*, as independent claim 1 recites. Examiner contends that the cited reference discloses the claimed subject matter at Paragraph 0016 (See Final Office Action dated March 9, 2007, pg. 3). Applicant's representative avers to the contrary.

The cited passage relates to a means of creating and maintaining a stock market. Users can enter estimates of a future event in the system. However, the cited passage is silent with respect to facilitating payment of an article of commerce. Entering values that relate to predictions of future events is different than facilitating payment for an article of commerce. When values are predicted, a user predicts; the user does not pay for articles of commerce. As a result, Van Erlach fails to disclose or suggest *a payment component that facilitates payment of the article of commerce.*

In addition to the passages cited by Examiner failing to disclose the claimed subject matter, it must be noted that the cited passages relate to separate and distinct embodiments of Van Erlach. A person having ordinary skill in the art could not individually select aspects of different embodiments to arrive at the claimed subject matter. Instead, a person having ordinary skill in the art would recognize each embodiment of Van Erlach as its own entity, and as a result would have no motivation to combine the embodiments disclosed in Van Erlach as attempted by Examiner.

In view of the foregoing, it is readily apparent that Van Erlach fails to disclose or suggest applicant's claimed subject matter as recited in independent claim 1 (and associated dependent claims 2-6, 8-18, 22-35 and 40). Therefore, it is respectfully requested that this rejection be withdrawn.

II. Rejection of Claim 7 Under 35 U.S.C. §103(a)

Claim 7 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Van Erlach in view of Gellman (U.S. 2002/0035536). Withdrawal of this rejection is requested for at least the following reasons. Claim 7 depends from independent claim 1. Gellman fails to cure the aforementioned deficiencies of Van Erlach with respect to independent claim 1. Accordingly, it is respectfully requested that this rejection be withdrawn.

III. Rejection of Claims 19-21 Under 35 U.S.C. §103(a)

Claims 19-21 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Van Erlach in view of Freund (U.S. 2003/0187787). It is respectfully requested that this rejection be withdrawn for at least the following reasons. Claims 19-21 depend from independent claim 1, and Freund fails to address the previously mentioned deficiencies of Van Erlach with respect to independent claim 1. Accordingly, it is respectfully requested that this rejection be withdrawn.

IV. Rejection of Claims 36-37 Under 35 U.S.C. §103(a)

Claims 36-37 stand rejected under 35 U.S.C. §103(a) as being unpatentable Van Erlach in view of Edgett *et al.* (U.S. 2004/0034771). This rejection should be withdrawn for at least the following reasons. Claims 36-37 depend from independent claim 1, and Edgett *et al.* fails to make up for the aforementioned deficiencies of Van Erlach with respect to independent claim 1.

Therefore, it is respectfully requested that this rejection be withdrawn with respect to claims 36 and 37.

V. Rejection of Claim 38 Under 35 U.S.C. §103(a)

Claim 38 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Van Erlach in view of Grunes *et al.* (U.S. 2002/0113707). This rejection should be withdrawn for at least the following reasons. Claim 38 depends from independent claim 1, and Grunes *et al.* fails to cure the aforementioned deficiencies of Van Erlach with respect to independent claim 1. Accordingly, it is respectfully requested that this rejection be withdrawn with respect to claim 38.

VI. Rejection of Claim 39 Under 35 U.S.C. §103(a)

Claim 39 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Van Erlach in view of Hoffberg (U.S. 6,791,472). As noted above, Van Erlach does not disclose or suggest independent claim 1. Claim 39 depends from independent claim 1. Accordingly, it is respectfully requested that this rejection be withdrawn with respect to claim 39.

CONCLUSION

The present application is believed to be in condition for allowance in view of the above comments and amendments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063 [SYMBP152US].

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicant's undersigned representative at the telephone number below.

Respectfully submitted,

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